IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Dr. Shanti Lal Vs. Shiv Narain Palod & Ors.

S.B.CR. MISC. PETITION NO.766/2007

DATE OF ORDER :: July, 03, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Suresh Shrimali, for the petitioner.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dt. 2.6.2005 passed by the Additional Sessions Judge No.1, Chittorgarh (for short `the revisional court' hereinafter) whereby the revision petition filed by the petitioner against the order dt. 10.8.2004 passed by Additional Chief Judicial Magistrate No.1, Chittorgarh (for short `the trial court' hereinafter) in FR No. 34/2003 was dismissed.

I have heard learned counsel for the petitioner at length.

Carefully gone through the orders passed by the trial court as well as the revisional court.

By a detailed and well reasoned order, the trial court accepted the negative final report filed by the police on the ground that there is no forgery of documents or their use as genuine. The petitioner prima facie failed to establish the forging of the document. From the material available on record, the trial court came to the conclusion that parties have been transacting and if at all there is some dispute, it may be a dispute of civil nature with regard to the long transaction between the parties but so far as the material available on record is not indicative of any criminal intent as also forging of document, the petitioner issued post dated cheques to the respondents, which on being presented have been dishonoured and therefore, a case under section 138 of the Negotiable Instrument Act, 1881 (for short `the Act' hereinafter) has been instituted and is pending trial. The present case is nothing but preempt the complaint case filed by respondents against the petitioner.

On the revision, the revisional court has elaborately considered the material available on record and note of every material evidence and came to the conclusion that there is no

ground to proceed against the respondents and affirmed the order passed by the trial court accepting the negative final report.

On close scrutiny of the material on record, in my view, both the courts below were justified in accepting the negative final report as there being no prima facie material showing dishonest, fraudulent or criminal intent or any forging of the document. In the circumstances, therefore, it cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of court warranting interference under section 482 Cr.P.C.

In this view of the matter, I do not find any merit in the petition. The petition is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-